

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES COMMODITY  
FUTURES TRADING COMMISSION,

*Plaintiff,*

V.

SENEN POUSA, INVESTMENT  
INTELLIGENCE CORPORATION,  
*DBA* PROPHETMAX MANAGED FX,  
JOEL FRIANT, MICHAEL DILLARD, and  
ELEVATION GROUP, INC.,

*Defendants.*

Civil Action No. A-12-CV-0862-LY

## RECEIVER'S INTERIM STATUS UPDATE

Comes now, Guy M. Hohmann, the Court-appointed Receiver in the above-referenced ProphetMax Receivership matter and the ancillary IB Capital matter and files this his Interim Status Update.

Since the Receiver's previous status report previously report of January 31, 2022, there has been significant activity to report. Specifically, the Court held a hearing on all pending motions on February 25, 2022.

**1. The Court ruled on the following Receiver's motions:**

**Docket 184** - The Court granted the Motion for Clarification which authorizes the Receiver's UK Counsel to go before the Court in the United Kingdom ("UK"). The court in the UK abated its proceeding until such time as this Court ruled on this motion, asking the Court to find IB Capital FX LLP an affiliate of IB Capital FX (NZ) LLC. After obtaining this ruling, the Receiver has reached out to his UK counsel so the proceedings before the UK court may proceed. The objective of that proceeding is to have IB Capital

restored to the registrar of companies in the UK. Once that occurs, counsel for ING bank has indicated it will transfer the funds from the IB Capital accounts to the Receiver. That should amount to approximately \$2.5 million.

**Docket 205** - The Court granted the Receiver's Motion for Leave to File the Settlement Agreement with ING Bank Under Seal. The document was filed under seal as required by the settlement agreement because it contains confidential information (wire transfer details and investor claimants' personal information).<sup>1</sup>

**2. The Court granted the Receiver's Motion to Withdraw Previously Filed Motions:**

**Dockets 200 & 208** which included withdrawing the following motions which were rendered moot as a result of the settlement with ING Bank:

**Docket 176** - Unopposed Motion for Approval of Interim Distribution Plan

**Docket 192** - Unopposed Motion to Incur and Pay Expenses and to Initiate Litigation

**Docket 167** - Unopposed Motion to Appoint Monitor

**3. The Court granted the Receiver's Motion to Disburse fees and funds to the Receiver's U.S. Counsel, Foreign Counsel, his paralegals and expenses incurred from August 2020 thru December 31, 2021:**

**Docket 190** - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, Paralegals and expenses incurred by the Receivership estate from August 1 – August 31, 2020.

**Docket 191**- Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, UK Counsel, Paralegals and expenses incurred by the Receivership estate from September 1 – September 30, 2020.

**Docket 193** - Motion for Approval to Pay Expenses for the

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<sup>1</sup> The settlement agreement does not constitute an admission or concession by ING of any violation of any statute or law, of any fault, liability or wrongdoing, or of any infirmity in the claims or defenses of the Parties. ING has always denied and continues to expressly deny any liability or wrongdoing. The ING Settlement will permit the Receiver to make a distribution for pro rata immediate restitution of approximately 36 percent of the net cash losses of the investors. The ING Settlement will also permit the Receiver to pursue frozen funds in other jurisdictions that could substantially augment this restitution in the relative near term.

Receiver's Counsel in the Netherlands, UK Counsel, US Counsel and paralegals from October 1 – October 31, 2020.

**Docket 194** - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, US Counsel and paralegals from November 1 – December 31, 2020.

**Docket 196** - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, US Counsel and paralegals from January 01, 2021, through April 30, 2021.

**Docket 198** - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, Cypriot Counsel, US Counsel and paralegals from May 01, 2021, through July 30, 2021.

**Docket 204** - Motion for Approval to Pay Expenses for the Receiver's Counsel in the Netherlands, US Counsel and paralegals from August 1, 2021- October 31, 2021.

**Docket 211** - Motion for Approval to Pay Expenses for the Receiver's US Counsel and paralegals from November 1, 2021- December 31, 2021.

### **On-Going Recovery Efforts**

As previously stated in the Receiver's Status Report on January 31, 2022 [Dkt. #212], the Receiver continues to make progress on multiple recovery efforts. The only update of any significance since the Receiver's most recent report is that the DPPO has been in discussions with the bank in Slovakia about repatriating approximately \$7.2 million in the Riknik & Sons, Ltd account to the receivership estate. The DPPO has not yet been able to indicate when the transfer may occur.

The Receiver would like to be in a position to issue a final distribution towards the end of this year or early next year.

### **CONCLUSION**

The next status report will be submitted to the Court on July 31, 2022. If significant developments occur in the interim, the Receiver will file a report before that date.

Respectfully submitted,

GUY HOHMANN

By: /s/ Guy Hohmann

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**RECEIVER FOR THE PROPHETMAX AND  
IB CAPITAL RECEIVERSHIP ESTATES**

**CERTIFICATE OF SERVICE**

On March 3, 2022, I electronically submitted the foregoing document with the Clerk of the Court of the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Guy Hohmann

Guy Hohmann